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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 HARVEY EUGENE LARSON,) Civil No. 09cv745-L(PCL)
12 Petitioner,) **SCHEDULING ORDER**
13 v.)
14 CARRASCO, Warden, *et al.*)
15 Respondents.)
16

17 Petitioner Harvey Eugene Larson, a state prisoner proceeding *pro se* and *in forma*
18 *pauperis*, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. Section 2254. The
19 case was referred to United States Magistrate Judge Peter C. Lewis for a report and
20 recommendation pursuant to 28 U.S.C. Section 636(b)(1)(B) and Civil Local Rule 72.3.
21 Respondent filed a motion to dismiss the Petition as time-barred under 28 U.S.C. Section
22 2244(d). Subsequently, the Magistrate Judge issued a Report and Recommendation
23 recommending the Petition be dismissed. For the reasons stated in the August 23, 2010 order,
24 the Report and Recommendation was adopted in part and remanded in part to the Magistrate
25 Judge. After remand, the Magistrate Judge has issued the Second Report and Recommendation
26 on Motion to Dismiss Petition for Writ of Habeas Corpus (the “Second Report and
27 Recommendation”).


28 Petitioner has a right to object to the Second Report and Recommendation. *See* Fed. R.

1 Civ. P. 72(b)(2). Accordingly, no later than **January 28, 2011** Petitioner may file and serve
2 objections, if any, to the Second Report and Recommendation. However, based on Petitioner's
3 habit of including new legal theories of statute of limitations tolling with each opportunity he has
4 to address the court, as stated in the August 23, 2010 order and reiterated in the Second Report
5 and Recommendation, in the absence of showing of good cause, the Court is not inclined to
6 consider Petitioner's objections to the extent they are based on new evidence or argument.

7 Any reply to Petitioner's objections shall be filed and served no later than **February 11,**
8 **2011.** The parties are advised that failure to file objections within the specified time may waive
9 the right to raise those objections on appeal of this order. *Martinez v. Ylst*, 951 F.2d 1153, 1156
10 (9th Cir. 1991).

11 **IT IS SO ORDERED.**

12 DATED: January 3, 2011

13 
14 M. James Lorenz
United States District Court Judge

15 COPY TO:

16 HON. PETER C. LEWIS
17 UNITED STATES MAGISTRATE JUDGE

18 ALL PARTIES/COUNSEL
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